

# THE CORRESPONDENT.

MAGNA EST VERITAS ET PREVALEBIT.

BY GEORGE HOUSTON, EDITOR AND PROPRIETOR.

No. 15.

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VOL. 5.

## CORRESPONDENCE.

### ON HISTORICAL EVIDENCE:

The means of arriving at truth, whether as to past facts of history, or past facts in the common occurrences of life, are the same: and whether they relate to the payment of a sum of money, or the progress of a revolution, we must depend on the relation of witnesses, or written documents, or on the reasonable conclusions afforded by ascertained collateral facts; that is, on circumstantial evidence. The rules of judging of the value of the evidence offered, is the same whatever be the object of enquiry.

Courts of justice are so much in the habit of discussing the value of evidence offered, that there are a set of rules adopted by the common consent of all legal writers on the subject, which may be regarded as the canons of evidence. In the British and the American courts, these rules have been laboriously established by repeated discussion and trials of their utility. Nor has any branch of the law, attracted more (if so much) attention as the law of evidence. It did not begin to be systematically treated in England till the time of Chief Baron Gilbert. The compilations on the subject in the old digests, were meagre, and far from being adequate to the decision of the numerous cases that the prodigious extent of dealing within the last half century has given rise to. Buller's elementary treatise on the law of *Nisi Prius*, was the first book that shewed the necessity of strict attention to the rules of evidence, and the practice of examination and cross examination. This book first brought the young practitioners of the bar to study the particular gist of the enquiry before the court, as depending on, and included in the form of action brought by the plaintiff; and taught them how to avoid or to press a nonsuit as the evidence was or was not skilfully applied to this point by the plaintiff's counsel. The scanty remarks on evidence in the *Trial Perpais*, and other old books of *Nisi Prius* practice, were enlarged by Espinasse, by Peake, by Philips, and lastly, by the heavy and dull, but full and accurate book of Starkie: of which, the second American edition, with very useful notes on the American decisions, by Mr. Ingraham, was published last year in three ponderous octavo volumes. Philips has more talent than Starkie, whose plodding summary of the detestable law of libel is by no means a first rate specimen of compilation; but as Starkie

on evidence, is now considered as the book of practical reference for the profession in this country ; I shall adopt it also for my present purpose.

1. We are not to expect in history the same accuracy as we observe in a court of justice. In history, the historians are voluntary narrators; they do not write as a witness speaks, under compulsion. 2. We never know precisely the real motives that actuate an historian to write. 3. We have no means of exercising the valuable privilege of oral examination, or the invaluable privilege of cross examination. 4. He has it in his power, without being called to account, unless by laborious criticism, a science yet in its infancy, to adduce what testimony he pleases, to cull out what may suit his purpose, to give it the complexion that suits his own views, and to omit if he pleases documents that would be troublesome to obtain or examine. On all these points, a court of justice, with their means and appliances, have greatly the advantage of a reader of history. Still there are rules and canons established by common sense and experience, that are common to the honest searcher after truth, whether in a cause before a court, or in the page of the historian. These we shall endeavor to lay down, using for the purpose two books only of legal authority; one on the practice of the law of evidence, the other on the theory: viz. Starkie on the Law of Evidence, in three volumes, octavo, 1828, and the *Traite des preuves judiciaires*, compiled from the MS. notes of Jer. Bentham, by Et. Dumont, in two vols., Paris 1823—both of them treatises strictly legal.

And first of the *testimony of witnesses*.

1. Objections to the credit—to the competency—that is to the propriety of a witness being examined at all—are in modern practice narrowed down to, 1, exclusions by positive law, for infamy: 2, exclusions for heterodoxy; becoming gradually much out of fashion: 3, exclusions from interest in the result or event of the cause before the court: 4, exclusions, where the examination if answered would unfairly compel the witness to criminate himself.

All other objections apply, not to his credit, competency, or admissibility—but to his credibility only: they impeach the value of his testimony, and furnish reason for defalcation from the respect otherwise due to it. Among the grounds of absolute exclusion, however, are “all offences founded in fraud, and which come within the general notion of the *crimen falsi* of the Roman law; as perjury, forgery, piracy, swindling, and cheating.” 2 Stark. 715.

2. All evidence is either direct or presumptive. Direct evidence may be either impugned, or confirmed by other direct evidence, and also by presumptive evidence. *Direct* evidence, is where the facts in dispute are communicated by those who have had actual knowledge of them by means of their own senses. *Presumptive* evidence, is where a fact is not directly and positively known and testified, but is inferred as a reasonable conclusion from other collateral facts or circumstances connected with it, and which are known. (1 Stark. 23) It frequently happens that no direct and positive evidence can be had: and often where it can be had, it becomes necessary to try its weight and accuracy by means of the presumptions arising from surrounding circumstances, with which it may be compared. The want of written documents, the fallacious-

ness of the human memory, the great temptations which perpetually occur to exclude the true, the suppression of true, and the fabrication of false testimony, render it necessary to call in every aid for ascertaining the truth. 1 Stark. 19, 23.

3. Our natural reason for believing the declarations of others—for giving credit to human testimony, is our constant observation and experience, that we and other men who have no reason for suppressing or disguising the truth, or for saying what is false—usually tell truth and not falsehood. Therefore from experience and observation of ourselves and others, we repose confidence in the veracity of others, when we see no reason why we should not do so. We refuse credit to men of bad character—to men known to be guilty of falsehood—to men who are interested to suppress or disguise the truth—because experience teaches us, that we cannot place confidence in what such men say. Doubts of their veracity have in our minds been associated with their declarations and narrations.

If our neighbor tells us of some very extraordinary circumstance, not conformable to our previous experience in relation to it, we consider whether our neighbor is a man of veracity generally; whether he has any motive to deceive us in this instance; whether he may not be deceived himself, and liable to mistake in some way or other—and we reason with ourselves which is most consonant to our past experience, that the fact related should be true, or that he should from some cause unknown to us, be deceived himself, or from some motive unknown to us, be induced to vary from the truth. Hence, although common and usual testimony is sufficient to establish common and usual facts, yet, facts strange, unaccountable, uncommon, cannot be substantiated on merely common evidence: they require a proportional strength of testimony to overcome objections founded on our previous experience of the improbability of such facts.

4. So, as to presumptive evidence: being accustomed to observe that like antecedents are attended by like consequents, (to use Dr. Brown's phraseology) we are apt by the constitution of our nature to infer the latter from the former. Hence our belief in the connection between motive and action, and our habitual attempts to explain the one by the other. When certain motives and certain actions have been long associated in our minds as the result of our observation and experience, we are naturally led to associate them in fact and in practical reasonings. (1 Stark. 23, 24, 29, 30.) Hence, the investigation of the motives that lead a man to act thus or thus, is always an important point of judicial enquiry, particularly in cases of crime. (Ib.) 5. Presumptions in civil cases may arise from great neglect—from the urging of dormant claims—from the offering of inferior instead of the best testimony—from omission to produce evidence easily attainable, or in the party's power—from his having any interest in the cause or in the question to be determined—from his connection with any of the parties—from any bias arising from *esprit de corps* religious or political; if he has to give testimony in favor of or against his religious sect, or his political party, it is hardly possible that his testimony should not be tinged, or warped by these very strong motives of bias. Presumptions may also arise from character



and station in society—from known habits—from occupation, and from various other circumstances that Starkie has enumerated, v. 1, p. 34—40. All these presumptions are founded on general observation and experience, and are therefore fair topics of reasoning before we form a conclusion. All this is well expressed by Starkie, in v. 1, p. 37, 483. See also, the *Doctrines of Circumstantial Evidence*, v. 1, p. 478, and of *Presumptions*, v. 3. p. 1234.

6. Hearsay evidence cannot be heard: it is not admissible; 1 Stark. 40—47. A court and jury must decide upon reasonable certainty. Even where the veracity, the perfect knowledge from full opportunity of observation, the good sense and good character, and the freedom from bias of a witness is undoubted, doubts may yet arise on his testimony. The different observations of Sir Walter Raleigh on an affray in the streets under his window, and that of another person actually engaged in it, are well known as an exemplification of the uncertainty that may attend the relations even of unprejudiced eye-witnesses. Much more, when we are utterly at a loss as to the character, the means of information, the veracity, the freedom from bias, the attentive and accurate observation of the original witness whose evidence is retailed to us at second hand in a general way. Above all, there are no means of sifting out the truth, and giving due weight to objections by cross examination, that invaluable preservative against error in testimony. Nor are we able to tell whether the hearsay witness before us, was himself attentive, accurate, faithful, impartial, and on the alert to get rid of error in the relation of his informant. Moreover, to let in hearsay testimony, is to let in all hearsay testimony of persons, however careless, however free from all obligation as to accuracy, or even to truth in their narration. It would be to let in all loose and idle clamor, report, and tittle tattle, unsifted, unexamined, unweighed. How much is all known history liable to this most fatal objection! The remarks in Horace Walpole's admirable preface to his *Historic Doubts on Richard I.* are unanswerable. In reading history says Voltaire, we are Ixion: we suppose we have Juno in our arms—it is only a cloud! Shall I read you some book of history, said his son to Sir Robert Walpole at his last illness? History—no: I have done with all works of fiction, and such is history. For great and prominent features—for all transactions in themselves probable, for the usual course and current of events, history may be quoted: but where is it built on the evidence of unbiassed eye-witnesses? Suppose a man of good sense and veracity present at the battle of Waterloo were to give me an account of what passed on that eventful day—how little could he tell from his own knowledge! how liable were his senses to be deceived! I have before me the *Albion* of March 28, 1829. In page 334 is an account of the battle of Waterloo by an eye witness, well told. There is in it this passage, "Are the French coming, sir, said I to a wounded Scotch officer? Egad, I cannot tell, replied he, we know nothing about it: we had enough to do to take care of ourselves. An English lady, elegantly attired, now rushed forward: is my husband safe? cried she eagerly. Good God, madam, replied one of the men, how can we tell? I do not know the fate of those who were fighting by my side; and I could not see a yard around me." History being thus liable to false information, to imperfect and

inaccurate information, to the information of those who may with perfect impunity be intentionally false; or who may be vague, or inaccurate, or careless, or indifferent—who may substitute surmises for facts, or who may see every thing through a mist of prejudice springing up from various sources—how necessary is it to require every precaution to be taken in obtaining original, first rate information; in ensuring truth, and accuracy, free from suspicious motives of personal or party interest, before we place any confidence whatever in the account. To rest our faith on second hand, careless, contradictory, inaccurate relations, bearing upon the face of them, want of authenticity, want of truth, want of accuracy, and obvious partiality, is leaning our weight on a broken reed. It is what every court of justice in every civilized country upon earth, would reject, if a dollar were at issue upon it.

Even where the question before the court and jury is this, *does any tradition exist of the fact alleged?* the tradition is required to be general, to be of a public nature, to be uniform, consistent, uncontradicted, derived from persons likely to know the facts, free from suspicion, reasonable. 1. Stark, p. 59 to 67.

7. "One of the most important rules (1 Stark. 389) on this subject, is, that the *the best* "attainable evidence should be adduced to prove every disputed fact. All secondary and inferior evidence must be rejected, when it is attempted to be substituted for evidence of a higher and superior character or nature." (1 Starkie 102) For, this substitution may reasonably be suspected to arise from some sinister motive, and from apprehension that the best evidence produced, would alter the case to the prejudice of the party who attempts to substitute evidence of an inferior grade. (Ibid.) There are no exceptions to this rule substantially: all the apparent exceptions are consistent with the plain meaning of the rule itself; which enjoins the production of the best and most unexceptionable evidence that could have been produced or offered, under the circumstances of the case. As a man's own acts or writings are to be produced if they are in existence, and no more evidence of them or their contents can be given. No copy of a deed is admissible if the deed itself be in existence and attainable. General Eaton has written and published an account of General Jackson and his campaigns. Suppose it to contain conversations and opinions by G. J., and that General Eaton had suppressed it purposely till General Jackson was dead; would it have been equally authentic? Would it not be said why not publish this while he was living, that these conversations and opinions might have been treated as being true, or not true, when attributed to that gentleman? So in the conversations and doctrines and sayings attributed to Jesus Christ, the best evidence the nature of the case would admit of, would have been his own account of his own doctrines; or his own authentication of the accounts given by other persons. This might have been done with ease; why was it left undone? Or why are we required to give implicit credit to second-hand evidence?

8. Where evidence on one side is positive, on the other negative, the positive testimony, is preferable, as a general rule. (1 Stark. 517) Thus, if one witness of sufficient credibility, swears that he heard or saw a fact; and another witness equally creditable swears he was present at the time and

neither heard or saw it, this is no contradiction, unless the fact itself, and the situation of the last witness were such, that he could not possibly avoid seeing or hearing it. (Ib. 5, 18) For instance, the accounts given of the life, conduct, condemnation, death, resurrection of Jesus Christ—the darkness and earthquake that took place—the rending of the veil of the temple, the rising of the dead from their graves—all matters of great public notoriety—forming a part of the Jewish history of that day—circumstances in themselves not only of great publicity, but of a most extraordinary character—could not be passed over, unnoticed by any cotemporary writer of transactions at Jerusalem at that time: yet neither Philo, who probably was there at the time, or Josephus, who lived among the Jews at the time, take the slightest notice of any of these extraordinary facts. Men of learning, of research, and themselves Jews, acquainted minutely with Jewish history, could not have omitted noticing transactions so extraordinary and so recent, had they really happened.

9. Where evidence is direct and conflicting, the effect is destroyed on both sides, like positive and negative quantities in Algebra of equal value. If their values be unequal, the best evidence must preponderate.

10. In common cases, of no great moment we may reasonably pronounce in conformity to a slight preponderance of evidence: but in cases of magnitude, or where much is at stake, this is not justifiable. The preponderance that would justify awarding a few dollars, would not suffice to put a man to death as a criminal, or to subject him to imprisonment, or even to the loss of character. 1 Stark. 451.

11. The corruption, subornation, or fabrication of evidence, deeply affects that side of the question it is introduced to support. (1 Stark. 490) "As the credit due to a witness, is founded in the first instance on general experience of human veracity, it follows that a witness who gives false testimony as to one particular, cannot be credited as to any; according to the legal maxim *falsum in uno falsum in omnibus*. The presumption that a witness will speak the truth, ceases, so soon as it manifestly appears that he is capable of perjury." Ibid p. 524.

What shall we say to a cause supported at its commencement by fifty forged gospels? And by regular professors of falsehood and forgery, such as St. Paul, Origen, Eusebius, St. Jerom, St. Chrysostem?

12. Bias from personal friendship or enmity—consanguinity—mutuality of interest—connection in the way of trade or profession are to be taken into account. None of these are stronger than the bias arising from membership, *Esprit de Corps*, particularly in case of religious sects or parties. Even those who care nothing about religion, care about the sect which they have joined: nor is there any fraud or falsehood that religious persons, or persons pretending so to be, have scrupled to employ, to promote a common cause. The history of Christianity from the miracles of the first century to the miracles of prince Hohenloe, furnish proofs in superabundance of this position: proofs impossible to be contradicted. Because quoted by Starkie, p. 522, is right. Parimente la credibilita di un testimonio prio essere alcuna volta sminuita quand' egli sia membro d'alcuna societa private di cui gli usi, e le massime siano o non ben conosciute o diverse dalle pubbliche. Un tal uomo ha non solo le



proprie ma le altrui passioni. Beccaria, ch. 13, and the passions of his sect are much stronger and more influential in all cases than his own.

13. In the examination of human testimony then, we enquire who is the witness, what is his character, what his situation in life, whether he has any bias on his mind that may warp his testimony, whether he has any interest of his own or others to swerve, that may produce the same effect. Whether he had sufficient time and opportunity to observe the fact he testifies: whether he is of sufficient judgment, caution and accuracy, to induce us to place reliance on his narration. If deficient in any of these particulars, we must defalk proportionably from his credibility. It is self evident that all these particulars apply to historical testimony. If the historian does not relate the fact on his own credit and authority, but on that of another, he ought at least to furnish us with the means of judging how far the preceding objects of enquiry apply to the authority he relies on.

14. Hence, an historian who does not accurately quote his authority for a fact, when it rests not on his own testimony, is utterly unworthy of credit in the case in question. It is his duty to enable us to judge of the value of the testimony on which his facts rest. A history wherein the authorities are not accurately cited, can never be quoted; nor ought it to find a place in any well selected library.

To apply this: *Who* wrote the four gospels now used by Christians? In what *language* originally? *When* were they written? *Where* were they written? What *measures* were taken to ascertain their comparative authenticity? Is there a clergyman living who can give satisfactory answers to these questions? No: there is not. Yet are not these enquiries to the last degree important to Christianity? Are not all the books of the old testament open to the same enquiries?

15. No historian is worthy of credit whose history contains gross anachronisms; allusions to facts of subsequent date; or to customs of subsequent date; or who employs words, expressions, and phrases not conformable to the time of which he speaks. Such anachronisms furnish irrefutable objections to the authenticity of any ancient work. The anachronisms of the Pentateuch are numerous and glaring: there are many also in the new testament. Let us suppose that a play published as Shakespeare's, contained allusions to the American war: is not that enough to destroy all claim to authenticity?

16. A writer in Walsh's review, in treating of the Homeric poems in a review of *Wolf's Prolegomena*, about a twelve month ago, shews clearly that the materials for writing any history or long work, did not exist previous to the use of the Egyptian papyrus. Of which probably, Herodotus was the first historian who did make use. It was not common till the time of the Ptolemies. This point of historical criticism appears to me of sufficient importance to be considered; and unless it be refuted, it will make sad havoc with many supposed ancient works. Indeed how can the Pentateuch be written on plaistered stones, the only method of writing known to Moses? See Deut. ch. 27 v. 1, or on Babylonish bricks, or slabs of lead or copper; or cow hides, *Diphtheræ*; or on blocks or sticks of wood, *Aziones*; or on waxen linen, or wooden tablets? It is a farce to talk of a long history written on such materials: men who

gravely tell us this, may be men of learning, but they have no more common sense than will serve their own purposes, and scarcely that.

Who ever cited any one of the books of the old testament before the Septuagint appeared? Their very first appearance was not till papyrus was in common use at Alexandria: then, and not before, we hear of the Septuagint. But where is the authority for the originals of the Septuagint? Who can tell?

I have a few more considerations to add to this head of enquiry, so that you will hear again from

PHILO VERITAS.

P. S. The gentlemen of the bar, have no great taste for religious disquisitions, otherwise I would dedicate this essay to them. They have their own mysteries to protect, and they piously leave the clergy in possession of theirs.

#### SPIRITUAL EXISTENCES.

##### No. I.

Mr. Houston—The superstition of a great portion of mankind, with regard to the fundamental principles of religion, viz., the existence of a deity, and the incorporation of an immortal and spiritual existence with the mortal and physical parts of the human system, has always appeared very singular, especially when we consider the natural propensity of man to investigate all other theories with so ardent a zeal for the discovery and propagation of truth. In perusing the annals of science, we find that Copernicus fearlessly and successfully exposed the fallacy of the biblical or divine theory of the planetary movements.

The possession of correct principles upon any subject, can only be obtained by an impartial examination of the evidence for and against it; for if we limit the exercise of the mind, we also limit the extent of our knowledge. It is with the government of the mind, as with that of a nation—"to possess its freedom, it has but to will it:" and when the mind is led into the full enjoyment of its natural liberties, it diffuses a glow of conscious rectitude and mental felicity, which all the superstitious notions of fanatics are incapable of producing. For the mind, as well as the body, is naturally fond of liberty, although the means of obtaining it are not generally known. Experience has proved that ignorance is the source of superstition; and superstition of debasement and misery; therefore, it is our duty to dispel ignorance, and diffuse truth and knowledge; and thus render man capable of holding and enjoying that station, which his capacities, when properly directed, so eminently qualify him to fill. Man is born with credulity, and that credulity leads him to adopt opinions at variance with himself and with nature; and not only with credulity, but also with prejudice: credulity leads him to receive certain sentiments, and prejudice establishes them in opposition to every fact; and not only that, but while his mind is yet incapable of judging, but open and susceptible to every impression, it is filled with the wildest vagaries, which are impressed by the most dreadful and terrific denunciations for scepticism. How then can we blame <sup>an</sup> for being as he is, the receptacle of so many absurd and conflicting <sup>opinion</sup> <sup>in</sup> <sup>urges</sup> ions? We do not blame him, but pity him and that compels us to strive to destroy the cause of his debasement.



If, as is most probably the case, man's belief in a supreme being originated in his ignorance of nature and nature's works, to what else can we attribute that belief, at the present day, than to his early impressions, his credulity, and his prejudices? He has assayed the deep recesses of nature's works—he has discovered the invisible laws by which those works are governed—he has traced to their true sources those wonders of nature, which were the astonishment and terror of the ancients, and, to them, the precursor of some dire calamity from their vindictive deities. He has also by his indefatigable researches, developed those beautiful systems in the government of the material world, (whose symmetry have led many to attribute their origin to some intelligent and mighty power) and has proved them to be operated upon by natural causes and effects. But, still, he is blinded; still he is the slave of superstition; the slave of prejudice; in an age of learning, in opposition to the elucidations of his own mind, and the facts developed by his own researches. So long as man continues to believe in probabilities; to permit his mind to be directed by others than himself; to take affirmations for truths, and suppositions or probabilities for facts; and that which is unnatural, for natural; and so long as he takes things unseen for things that are seen, so long will he be the slave of his own infirmities. But one thing is certain—not only reason teaches it, but experience proves it, that where these mental fetters have been broken, and the mind permitted to take its natural range through the beautiful and unbounded fields of nature, ignorance has been overthrown, and truth and reason have raised their altars upon the ruins of the fallen fabric.

CATO.

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### SATURDAY, MAY 2, 1829.

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\*.\* The office of the Correspondent is removed to No. 10. William street, directly opposite Beaver-street.

From the Philadelphia Gazette.

Messrs. Editors—Having seen a paragraph in your paper of this day, copied from the New-York Commercial Advertiser, stating that the mail from that city to this was stopped by the inhabitants of Princeton, on Sunday last, we think it proper to communicate the particulars respecting the occurrence. It was not the letter mail, but several bags, containing the *Christian Advocate*, post office quarterly returns, dead letters, &c. on their way to the general post office, Washington, for the transportation of which we are sub-contractors, under Messrs. Reeside & Co., and on his arrival at Princeton, on Sunday last, the driver, who is regularly sworn, was forcibly stopped, with the mail bags, by several of the inhabitants, and compelled to remain until Monday morning (all out of piety.) The public may be gratified to learn that prosecutions are about being instituted against the perpetrators, under the post office law of the United States.

HILL, FISH &amp; ABBE.

Philadelphia, April 23d, 1829.

## REMARKS.

We have always known that the presbyterians in this country were more intolerant than they are in any part of Europe, and the occurrence referred to in the above article confirms the fact. In Scotland, where

calvinism has the ascendancy, should a *stage* coach travel on Sunday, this would be considered a profanation by the morose and gloomy, many of whom would rather see the fruits of the earth rot in the field than that they should be removed to a place of safety on the day set apart for psalm singing and idleness. But, in no instance have these fanatics been known to interfere with the *mail* coaches, or even with the coaches of the rich travelling on that day. Our presbyterians, since their recent defeat in congress, have been laboring hard to convince the public, that they never contemplated a union of church and state in any of the measures they have adopted to give eclat to their party. But although there did not exist complete evidence to the contrary, in the open avowals from the pulpit, and in the publications of their principal leaders, the lawless transaction at Princeton, the focus of calvinism, where a seminary exists for the express purpose of instilling into the minds of youth the gloomy and intolerant doctrines of the sect, would of itself be sufficient to show, that its aim is the establishment of a hierarchy, in which presbyterianism would take the lead, and to which every institution in the country would be compelled to become subservient. Had this not been their object, they would have bowed in silence to public opinion, so clearly expressed in the approbatory manner in which the report of Mr. Johnson was received, not only in Congress, but throughout the country, instead of evincing a determination to force a compliance with their views by outraging the laws of the country. Disposed, as some of our rulers have too frequently been, to wink at, if not to countenance the encroachments of the priesthood, we cannot persuade ourselves that in this instance any attempt will be made to screen the offenders. We should despise ourselves if we were capable of uttering a sentiment hostile to the free exercise of opinion either in speaking or writing on all subjects; but when this is accompanied by *acts* subversive of good order in society, we feel no hesitation in saying that the laws enacted for its protection ought to be enforced.

#### CONSTITUTIONAL RIGHTS OF OPINION.

Concluded from page 221.

From the Constitution of Kentucky:—

Art. 2. § 26. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect; nor whilst he holds or exercises any office of profit under this commonwealth, shall be eligible to the general assembly.

Art. 6. § 7. The manner of administering an oath or affirmation, shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the general assembly the most solemn appeal to God.

Art. 10. § 3. That all men have a natural and indefeasible right to worship almighty God, according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship.

4. That the civil rights, privileges, or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

7. That the printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

From the Constitution of Tennessee:—

Art. 8. § 1. Whereas the ministers of the gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.

2. No person who denies *the being of God, or the future state of rewards and punishments*, shall hold any office in the civil department of this state

Art. 2. § 3. That all men have a natural and indefeasible right to worship almighty God according to the dictates of their own conscience: that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

4. That no religious test shall ever be required as a qualification to any office, or public trust, under this state.

19. That the printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch or officer of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

From the Constitution of Ohio:—

Art. 8. § 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their conscience: that no human authority can, in any case whatever, control or interfere with the rights of conscience; that no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent; and that no preference shall ever be given by law to any religious society or mode of worship; and no religious test shall be required, as a qualification to any office of trust or profit. But religion, morality, and knowledge, being essentially necessary to the good government, and the happiness of mankind, schools, and the means of instruction, shall for ever be encouraged by legislative provision, not inconsistent with the rights of conscience.

From the Constitution of Indiana:—

Art. 1. § 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience:



that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent: that no human authority can, in any case whatever, control, or interfere with the rights of conscience: and that no preference shall ever be given by law to any religious societies or modes of worship; and no religious test shall be required as a qualification to any office of trust or profit.

9. That the printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of men; and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

From the Constitution of Louisiana:—

Art. 2. § 22. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly, or to any office of profit or trust under this state.

21. Printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of men, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

From the Constitution of Mississippi:—

Art. 1. § 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall for ever be free to all persons in this state: Provided, that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this state.

4. No preference shall ever be given by law to any religious sect or mode of worship.

5. That no person shall be molested for his opinions on any subject whatever, nor suffer any civil or political incapacity, or acquire any civil or political advantage, in consequence of such opinions, except in cases provided for in this constitution.

6. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

7. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

Art. 6. § 6. No person who denies the being of God or a future state of rewards and punishments, shall hold any office in the civil department of this state.

7. Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of governor, lieutenant governor, or to a seat in either branch of the general assembly.

16. Religion, morality, and knowledge, being necessary to good government, the preservation of liberty, and the happiness of mankind—

schools, and the means of education, shall for ever be encouraged in this state.

From the Constitution of Illinois:—

Art. 8. § 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

4. That no religious test shall ever be required as a qualification to any office, or public trust, under this state.

22. The printing presses shall be free to every person who undertakes to examine the proceedings of the general assembly, or of any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of men, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

From the Constitution of Alabama:—

Art. 1. § 3. No person within this state shall, upon any pretence, be deprived of the inestimable privilege of worshipping God in the manner most agreeable to his own conscience; nor be compelled to attend any place of worship; nor shall any one ever be obliged to pay any tithes, taxes, or other rates, for the building or repairing any place of worship, or for the maintenance of any minister or ministry.

4. No human authority ought, in any case whatever, to control or interfere with the rights of conscience.

5. No person shall be hurt, molested, or restrained, in his religious profession, sentiments or persuasions, provided he does not disturb others in their religious worship.

6. The civil rights, privileges, or capacities of any citizen, shall in no way be diminished or enlarged, on account of his religious principles.

7. There shall be no establishment of religion by law; no preference shall ever be given by law to any religious sect, society, denomination, or mode of worship; and no religious test shall ever be required as a qualification to any office or public trust under this state.

8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

From the Constitution of Missouri:—

Art. 3. § 13. No person, while he continues to exercise the functions of a bishop, priest, clergyman, or teacher of any religious persuasion, denomination, society, or sect, whatsoever, shall be eligible to either house of the general assembly; nor shall he be appointed to any office of profit within the state, the office of justice of the peace excepted.

4. That all men have a natural and indefeasible right to worship almighty God according to the dictates of their own consciences: that no man can be compelled to erect, support, or attend any place of worship, or to maintain any minister of the gospel or teacher of religion;

that no human authority can control or interfere with the rights of conscience; that no person can ever be hurt, molested or restrained, in his religious profession, or sentiments, if he do not disturb others in their religious worship.

5. That no person, on account of his religious opinions, can be rendered ineligible to any office of trust or profit under this state; that no preference can ever be given by law to any sect or mode of worship; and that no religious corporation can ever be established in this state.

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*Liberal Society in Baltimore.*—The account of the proceedings of the friends of liberal principles at Baltimore, where an Association is now formed for the promotion of these principles by means of the press, came too late for insertion this week. They shall appear in our next.

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### MISCELLANEOUS.

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#### PROSECUTIONS IN ENGLAND FOR BLASPHEMY; *Or speaking evil of the Bible and the Christian Religion.*

Concluded from page 223.

Mrs. Jane Carlile was prosecuted by the Vice Society; first, for the publication of the trial of Mr. Carlile; and second, for the publication of No. 9, Vol. 1, *Republican*, and Sherwin's life of Thomas Paine. The first case was not carried to a jury: on the second, she escaped by a flaw in the indictment; but was immediately pursued by the attorney general for a political libel in '*The Republican*,' and received two years imprisonment in Dorchester gaol.

Joseph Swann of Macclesfield, was prosecuted at the Chester sessions for January 1820, on a variety of indictments: one for attending a public meeting, at which he did not speak, but looked seditiously and blasphemously; the others for bible blasphemy, taken from the '*The Republican*,' and from a work then published, entitled the '*Theological Comet*.' He suffered four years and a half of imprisonment in Chester Castle, after trial.

Robert Wedderburn was prosecuted by the attorney general for words spoken, and sentenced to two years imprisonment in Dorchester gaol. This term was completed in the most severe manner.

Thomas Davison was prosecuted by the Vice Society in 1820, for the publication of '*The Republican*,' No 9, Vol. 1, and a publication of his own called the '*Deist's Magazine*,' and sentenced to two years imprisonment in Oakham gaol.

Mary Ann Carlile was prosecuted by the Vice Society for the publication of an appendix to the theological works of Thomas Paine. The strongest passage selected for the indictment was an extract from one of Archbishop Tillotson's sermons. She was sentenced to one year's imprisonment, and a fine of five hundred pounds. She suffered two years imprisonment and paid no fine. A reference to the indictment will shew this to be the most abominable prosecution of the kind ever instituted.



Mrs. Susanna Wright was prosecuted by the Vice Society in 1822, for the publication of a letter to the reverend William Wait of Bristol, which had been provoked by a letter from that clergyman to Mr. Carlile. She was first committed to newgate for ten weeks, and then to cold bath fields prison for eighteen months, with a fine of one hundred pounds. Imprisonment suffered, but fine remitted.

Humphrey Boyle, Joseph Rhodes, William Holmes, John Barkley, William Rance, Charles Sanderson, and ——— Turner, and ——— Atkinson, were prosecuted in 1822, by the constitutional association, on a joint charge of sedition and blasphemy, published in a sixpenny pamphlet, a publication of Mr. Carlile's letters and correspondences for June, 1821. Barkley being a youth, was sentenced to six months imprisonment: Boyle to eighteen months, after five before trial; and Rhodes and Holmes to two years each, and hard labor. The sentences were all completed. Prosecutions at the old bailey sessions.

William Tunbridge was prosecuted in 1823 by the attorney general, in the court of king's bench, for the publication of Palmer's Principles of Nature. Sentence, two years imprisonment in cold bath fields prison, and a fine of one hundred pounds. Imprisonment completed, fine remitted.

John Jones was prosecuted by the Vice Society, for the publication of "Observations on Dr. Gregory's evidences of the Christian religion, in a letter to the Rev. William Wait of Bristol, by R. Carlile." The trial was called on in October, 1823, but the witness was not forthcoming to prove the publication, and a verdict of not guilty entered. This we understand to have been the last interference of the Vice Society: though William Clark was indicted later than Jones and brought to trial earlier, for the publication of "Queen Mab." Sentence, four months imprisonment in cold bath fields prison.

James Watson was prosecuted by the solicitor to the treasury, at the Middlesex sessions for May 1823, for the publication of Palmer's Principles of Nature. Sentence one year's imprisonment in cold bath fields prison.

Samuel Waddington was prosecuted in the court of king's bench, by the attorney general, for the publication of Palmer's Principles of Nature. Sentence, one year's imprisonment in cold bath fields prison.

Charles Trust, a youth, was prosecuted in the court of king's bench by the attorney general, for the publication of Palmer's Principles of Nature. Sentence, six months imprisonment in newgate, and a fine of twenty pounds. He was detained several months in default of paying the fine.

Joseph William Trust was prosecuted by the attorney general, in the court of king's bench, for the publication of Palmer's Principles of Nature. Suffered to go at large on his own recognizances without sentence.

William Campion, Thomas Jefferies, John Clarke, John Christopher, William Haley, Richard Hassell, William Cochrane, Thomas Riley Perry, and Michael John O'Connor, were prosecuted by the solicitor to the treasury, at the old bailey sessions for June 1824, for the publication of Paine's Age of Reason, Palmer's Principles of Nature, and some Nos. of the Republican. Campion, Clarke, Haley, and Perry were sentenced to three years imprisonment. Hassell to two years.

Jeffries to eighteen months. Cochrane, Christopher, and O'Connor to six months.

James Affleck, prosecuted at Edinburgh by the lord advocate of Scotland, for the publication of Paine's *Age of Reason*, *Queen Mab*, and other small productions, pleaded guilty to avoid transportation, and was sentenced to three months imprisonment.

Several provincial cases have occurred, not precisely within the knowledge of the writer as to particulars. One Retchford of Nottingham, was imprisoned six months for the publication of the report of the trial of R. Carlile. A Mr. John Grattan of Wingerworth, near Chesterfield, a very respectable man, and a man of property, was indicted at the Derby Assizes for the private circulation of a small tract entitled, the character of the Christian Mysteries. His prosecutors were the clergy of Chesterfield. To avoid imprisonment he compromised the prosecution by paying all expenses incurred. At the close of the last century, one John Davies of Stockport, was prosecuted and imprisoned for making a collection of the contradictions in the bible, without a word of comment.

Notwithstanding all the prosecutions, and fines, and imprisonments; notwithstanding there are many still suffering imprisonment, the publications have been and are still kept in open and constant sale, and as these prosecutions have been so many violations of the law of this country, so have they failed in every purpose, but that of inflicting misery, and so may they, and so will they fail.

*Free Press Association.*—The meetings of the Association are now held in the Bowery Long Room, opposite the Theatre, every Sunday afternoon, at 3 o'clock, for lectures; and in the evening, at 7 o'clock for debates.

A lecture will be delivered to-morrow afternoon (Sunday) at three o'clock, *on the most effectual means of destroying superstition*—by Mr. Offen.

In the evening, a debate will take place on the following question:—*Is the Christian religion, as taught and promulgated in the United States, better calculated to promote happiness and good order in society than any other system?*

Tickets of admission to the debate, (to be had at the door) three cents each. Ladies free.

The friends of liberal principles throughout the United States, are respectfully requested to accept of the agency of the *Correspondent*. Four volumes are now completed, and sets can be had from the commencement.

The CORRESPONDENT is published every Saturday, at No. 10 William-street New-York; and by Mr. John Turner, No. 140 1-2 Market-street, Philadelphia, a THREE DOLLARS per annum, in advance. All communications to be addressed to Mr Geo. Houston, Editor, New-York.

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